



Paper No. 10

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AUG 05 2002

In re Application of
Gjerde, et al.
Application No. 09/826,055
Filed: 3 April, 2001
Attorney Docket No.: P-457

OFFICE OF PETITIONS

ON PETITION

This is a decision on the petition filed on 4 June, 2002, under 37 C.F.R. §1.53 requesting that pages 4 and 49 of the above-identified non-provisional application be accorded a filing date of 3 April, 2001.

The petition under 37 C.F.R. §1.53 is **GRANTED**.

The application was originally deposited (via Express Mail Label No ET214484176US) on 3 April, 2001.

The application as filed consisted, *inter alia*, of 86 consecutively numbered pages written description (specification, claims and abstract) and 9 sheets of drawings.

The application coversheet also authorized the basic filing fee, which was charged.

The Office mailed on 18 March, 2002, a "Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures" in which Petitioner was informed that pages 4 and 49 of the specification (description and claims) appeared to have been omitted from the application. The Notice further indicated that the Applicant must respond within two months of the Notice mail date.

Petitioner filed on 4 June, 2002 (over a 13 May, 2002, certificate of mailing), a response with the instant petition, a copy of the Office-stamped filing receipt card, a copy a document purporting to be the entire application of document, including pages 4 and 49 of the specification (description and claims), a check in the amount of \$130.00 in payment of the petition fee, and the required copy of the Notice.

The copy of the date stamped (3 April, 2001) receipt card (with Office bar code and application number) filed with the instant petition indicates that the application was filed with, *inter alia*, 86 pages of specification, including claims, and nine sheets of drawings.

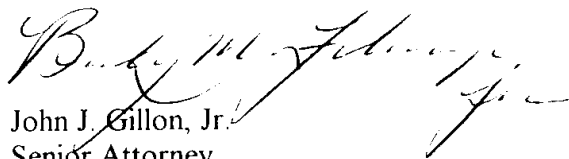
Because the return postcard receipt properly itemizes the contents of the application package in accordance with MPEP §503, the Office concludes that 86 pages of specification (description and claims), including pages 4 and 49, were filed on 3 April, 2001, and that the pages 4 and 49 were subsequently misplaced in the Office.

Accordingly, the petition is **granted**.¹

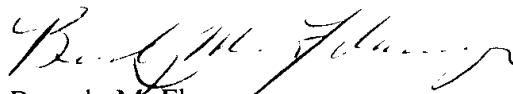
The Notice mailed on 18 March, 2002, hereby is withdrawn to the extent that it addresses alleged omitted items pages 4 and 49 of the specification (description and claims).

This application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of 3 April, 2001, using the 84 pages (1-3, 5-48, 50-86) filed on 3 April, 2001, and the pages 4 and 49 supplied on 4 June, 2002, with an indication on the PALM bib data sheet that 86 pages of the specification (description and claims) were present on filing.

Telephone inquiries concerning this matter may be directed to John J. Gillon, Jr., Senior Attorney, Office of Petitions, at (703)305-9199.



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¹ The petition fee (\$130.00) is being refunded via Treasury check.